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DEPARTMENT OF STATE

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BRIEFING MEMORANDUM

S/S

R (62)

December 11, 1980

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TO: S/S - Mr. Tarnoff

FROM: IO - Richard L. McCall RLM

SUBJECT: Transition Papers -- Response to S/S 8025270 and S/S 8025327

Herewith is IO's response to the subject tasking memoranda. As instructed, we have included only major legislative provisions, Presidential directives and NSDM's which affect our work.

Prohibition of Contact with the PLO.

A Memorandum of Agreement between the U.S. and Israel signed by Henry Kissinger and Yigal Allon September 1, 1975 states, inter alia, that the U.S. "will not recognize or negotiate with the Palestine Liberation Organization so long as the Palestine Liberation Organization does not recognize Israel's right to exist and does not accept Security Council Resolutions 242 and 338. (242 calls on Israel to withdraw from the territory occupied in 1967 and affirms the principles of respect for the sovereignty and territorial integrity of all states in the region and their right to live within secure and recognized boundaries; 338 calls for negotiations.) The Kissinger-Allon Memorandum accompanies the September 1, 1975 Egypt-Israel Agreement on partial withdrawal by Israel from the Sinai. This undertaking concerning the PLO is the basis of our policy of refusing to recognize or negotiate with the PLO and to oppose PLO participation in UN and other international organizations. It is also the basis of our practice of avoiding official contact with PLO representatives.

Palestinian Rights.

The Camp David Accords (approved by Congress) provide a particular framework for the gradual realization of Palestinian rights. Our commitment to the Camp David

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process, in which we provide good offices, restricts our ability to accept other definitions of Palestinian rights in UN resolutions (i.e., a call for self-determination), or other approaches to negotiating a resolution of the Palestine problem.

Peacekeeping Force for the Sinai.

The U.S. is obligated to begin discussing an International Peacekeeping Force for the Sinai with Israel and Egypt at the Ministerial level one year before Israeli final withdrawal from the Sinai, i.e., in April 1981. In connection with the Egypt-Israel peace treaty of March 26, 1979, the President sent identical letters to President Sadat of Egypt and Prime Minister Begin of Israel in which he committed the United States to "exert its utmost efforts to obtain the requisite action by the Security Council" for the permanent stationing of a UN peacekeeping force in the Sinai at the time Israel withdraws to its international border in April 1982. In addition, the President committed the United States to take the necessary steps "to ensure the establishment and maintenance of an acceptable alternative multinational force" in the event that the Security Council fails to establish the UN force.

South Africa Arms Embargo.

The UN Arms Embargo, against South Africa, was made mandatory by Security Council Resolution 418 of November 4, 1977. Under the UN Participation Act of 1945, as amended (22 U.S.C. 287 et. seq.) the President is authorized to implement such mandatory Security Council regulations, and under the UN Charter and international law he is required to do so. By a memorandum of November 28, 1977, Brzezinski conveyed to the Secretaries of State and Commerce new steps to be taken pursuant to the Security Council action, expanding upon the unilateral embargo maintained by the United States against South Africa since 1962 (an embargo based specifically upon Section 414 of the Mutual Security Act of 1954). Currently, U.S. restrictions on exports to South Africa fall into four basic categories: (1) commercial exports are controlled pursuant to the Export Administration Act (50 U.S.C. app. 2401); (2) munitions exports are controlled pursuant to the Arms Export Control Act (22 U.S.C. 2778); (3) nuclear-related materials are controlled pursuant to the Nuclear Non-Proliferation Act (22 U.S.C. 3201; and (4) financial assistance for exports to South Africa is controlled by the Export-Import Bank Act, specifically the Evans Amendment to that Act (section 2(b)(8)).

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Puerto Rico.

President Carter in 1978 issued a proclamation reaffirming the U.S. commitment to the principle of self-determination for Puerto Rico and expressing support for "whatever decision the people of Puerto Rico may wish to take -- statehood, independence, commonwealth status, or mutually agreed modifications in that status." In 1979, Congress through a unanimous joint resolution "reaffirm(ed) its commitment to respect and support the right of the people of Puerto Rico to determine their own political future through peaceful, open and democratic processes." Although the UN General Assembly accepted the 1952 referendum on Puerto Rico's commonwealth status as an act of self-determination, we have recently maintained, in light of Puerto Rican pressure for a referendum on statehood, that further acts of self-determination are possible. The 1980 election, however, did not provide Governor Romero Barcelo with the pro-statehood mandate he expected. Even if he ultimately wins the election, he will not call the referendum. Nonetheless, our public commitment remains.

Wolff Amendment.

The Wolff Amendment (Section 102C of PL 96-69) to the 1980-81 State Authorization Bill requires the U.S. to withhold from our UN assessment our proportionate share of the costs of the Special Unit on Palestinian Rights and the Committee on the Exercise of the Inalienable Rights of the Palestinian People.

(Prospective) Moynihan Amendment.

Section 106 of the State, Justice, Commerce Appropriation Bill prohibits payment of that portion of U.S. assessed contribution to UNESCO which would represent the United States' 25 percent share of the Organization's regular program funds which would be distributed to the PLO or for projects administered by or in consultation with the PLO. This bill, adopted by Congress, is before the President and is expected to be vetoed. It is anticipated that the Moynihan Amendment will be part of a continuing resolution. The Department's view is that the Moynihan Amendment, if adopted, would be illegal in that the United States, in joining UNESCO with the approval of the Senate, incurred a treaty obligation to pay its assessment.

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Assessment Percentage Limitation.

By law, the U.S. payment to the following organizations is limited to 25 percent of the organizations' assessed budgets:

United Nations
United Nations Educational, Scientific and Cultural Organization
International Civil Aviation Organization -- Other than Joint Financing Organization
World Health Organization
Food and Agriculture Organization
International Labor Organization
International Telecommunication Union
World Meteorological Organization
Intergovernmental Maritime Consultative Organization
Universal Postal Union
World Intellectual Property Organization

U.S. Participation in International Conferences and the Composition of Delegations.

United Nations General Assembly - The United Nations Participation Act of 1945, as amended, provides that the President, by and with the advice and consent of the Senate, shall designate up to five representatives and such number of alternates as he may determine consistent with the rules of the General Assembly, to represent the U.S. at sessions of the UN General Assembly. This provision applies to both regular and special sessions of the General Assembly.

United Nations Educational Scientific and Cultural Organization (UNESCO) - The UNESCO participation act (Public Law 79-565) provides that the President, by and with the consent of the Senate, shall designate up to five representatives and five alternates to represent the U.S. at sessions of the UNESCO General Conference.

Guidelines for private sector participation - Federal Register, March 23, 1979. 44FR 178846. These outline objectives of private sector participation in conferences and the need for balanced representation. Also criteria for selection of advisers and their role.

Biden Amendment - This provides for selection and funding of potential delegates who otherwise could not afford to participate in conferences, in order to give balance to U.S. delegations.

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Circular 175 - This circular must be approved so that representatives of USG can (1) negotiate and (2) sign on behalf of the United States. This requirement falls in the purview of the substantive bureaus.

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IO:Staff
12/11/80

Concurrence:S/P:PKreisberg (substance)
NEA:JHirsch

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